

Supreme Court of Nevada
ADMINISTRATIVE OFFICE OF THE COURTS

ROBIN SWEET
Director and
State Court Administrator

JOHN MCCORMICK
Assistant Court Administrator
Judicial Programs and Services



SCOTT SOSEBEE
Deputy Director
Information Technology

VERISE V. CAMPBELL
Deputy Director
Foreclosure Mediation

State of Nevada Foreclosure Mediation FMP Advisory Committee

February 20, 2014

Meeting Summary

Members Present:

Tiffany Ballenger, teleconference
Malcolm Doctors, Las Vegas
Rande Johnsen, teleconference
Charles McGee, Carson City
Marianne Pepe, Las Vegas
Michael Joe, Las Vegas
Shirley Foster, Las Vegas

Verise Campbell, Las Vegas
James Hastings, II, teleconference
Geoffrey Lavell, teleconference
Laila Orellana, teleconference
Phillip Silvestri, Las Vegas
Joel Sarmiento, Las Vegas

Members Absent:

Gregory Wilde

Staff Present:

Linda Aguire, Carson City
Michael Sommermeyer, Las Vegas

Cheryl Harris, Las Vegas

Public Present:

Seth Adams, Carson City
Geoff Giles, Carson City
Kristin Schuler-Hintz, Las Vegas
Nadia Navarro, Carson City

Mary Law, Carson City
Chad Pace, Carson City
Keith Tierney, Carson City

Call to Order:

Chair Campbell called the meeting to order at 9:40 a.m.

Roll Call and Determination of Quorum:

Ms. Harris called the roll; a quorum was present.

Approval of 12/12/13 Minutes:

MOTION TO APPROVE MINUTES BY MR. DOCTORS; SECOND BY MR. LAVELL; PASSED UNANIMOUSLY.

Chair Campbell advised agenda items would be taken out of order.

Business and Actions Items

A. Other States Subcommittee - Report

The report was presented by subcommittee spokesperson Rande Johnsen. Mr. Johnsen acknowledged the efforts of Mr. Sarmiento and Mr. Hastings in compiling the report.

The report compared Nevada's Foreclosure Mediation Program with other similar programs and provided statistics regarding home loan delinquencies, as well as mediation. The common themes identified in all of the programs reviewed were communication, education, data, and documentation. The report also includes the American Bar Association Report on Mediation Programs, and a section covering the Consumer Finance Protection Bureau (CFPB), created under the Dodd-Frank Act.

Mr. Johnsen reported that Nevada's program is most transparent than the other states that were reviewed. Nevada FMP readily shares statistical data, which other programs do not, and some deem their statistical data as private. Mr. Johnsen recommended the committee thoroughly read the report and also look at Federal laws as they relate to the mortgage servicing industry and the CFPB. Mr. Johnsen also reported the Mortgage Banking Association is monitoring the servicing industry. Some of the provisions that need to be in place under the new Dodd-Frank regulations include required live contact, listing of key timeframes, and defining mediation needs and servicer needs, as well as significant changes to the foreclosure process.

The report outlined five suggestions for improvement of the Nevada FMP:

1. Establish a web portal for payment, document exchange, case management and Certificate issuance.
2. Establish education programs for all stakeholder groups (mediators, homeowners, servicers and mortgage companies, homeowner and lender representatives).
3. Require homeowners to consult with housing counselors for all homeowners prior to mediation.
4. Allow telephonic/web-based online meetings for all parties in mediation.
5. Review relevant provisions of Dodd Frank Act.

Chair Campbell thanked all members of the sub-committee for their hard work.

Judge McGee recommended FMP staff look at pre-screening of applicants. Discussion ensued regarding housing counselors. Chair Campbell stated that Philadelphia's program, spearheaded by Judge Rizzo, has a 69% success rate. The Philadelphia program is completely court run, and they literally go door to door to notify homeowners of the program. Housing counseling is a key piece

of the Philadelphia program. Chair Campbell commented that this information should be shared with every agency involved in the foreclosure process and with legislators.

The advisory committee will review the Other States Sub-Committee report for discussion at the next meeting.

Mr. Johnsen stated there is not one uniform Foreclosure Act for every state. Each state has different rules, which will affect each program differently. Ms. Campbell commented about a governing committee that is trying to work on a uniform foreclosure act. She will gather information on this initiative and share at the next meeting.

Mr. Lavell stated that he sees some of the issues come up due to a disconnect between what the realtors believe is fair market value and what the banks are claiming fair market value is and banks cannot be held accountable for the valuations they are providing using broker price opinions prepared by individuals who are ill-equipped to do proper valuations. Mr. Johnsen said he appreciates Mr. Lavell's comment but this was not the scope of what they looked at.

B. Judiciary and Legal Sub-Committee – No report.

Program Update Report

Mr. Sommermeyer stated the new Foreclosure Mediation Rules were expected in the very near future. Charts were handed out reflecting the NOD filings through January 31, 2014. Mr. Sommermeyer reported that NOD's were down 18%. NOD filings are projected to reach 400 for the month of February. The program is averaging a 12-13 percent monthly participation rate. Certificate issuance is current; and the program has completed changes to be in compliance with new laws. The program developed a new system to allow trustees to submit required information using Extensible Markup Language (XML) to minimize data entry keying of information by FMP staff. There are now eight trustees who handle the largest number of FMP cases participating in XML submission. Chair Campbell recognized the committee for its contribution in developing this idea. Mr. Sommermeyer shared other system enhancements including the mediation case file packet.

Mr. Doctors stated the change from elections to enrollments is a failure. Mr. Silvestri commented he does not believe the change from elections to enrollments has been effective. Michael Joe stated it is too early to say if the legislative changes are a failure and it is too early to draw conclusion. .

Chair Campbell advised the committee that the program is operating under dual systems to accommodate elections still in process and new enrollments.

Mr. Sarmiento inquired as to whether or not the XML system can be used with a different Portal. Mr. Sommermeyer replied in the affirmative.

Mr. Joe shared a chart used to track foreclosures in Nevada. This chart is used by Legal Aid Center of Southern Nevada in the homeowner training class.

Ms. Campbell acknowledged Nevada's notices of default filings are down and home values are coming back, which is good for the state.

Mr. Sarmiento stated HAMP is now seeing huge results and the resetting of 2nd liens that will be effective 2015, 2016, and 2017.

Chair Campbell requested committee members provide agenda or discussion items to her for inclusion in future meetings. Chair Campbell solicited a future report from the Judicial Subcommittee and advised that Committee Member Wilde has ideas to share with the Judicial Sub-committee.

Judge McGee stated there is the likelihood that the majority of mediations conducted by servicers are in bad faith because servicers are governed by pooling and service agreements and adjustments cannot be made because of contractual limitations. Judge McGee said the servicers are making a mockery of this committee and the committee should investigate the matter thoroughly.

Chair Campbell stated that if there is a report a sub group wants to provide, a meeting should be held with the respective members and a report should be made to full committee as an agenda item.

Ms. Orellana believes there is an issue with beneficiary authority. She appreciates that the decision maker now needs to be at the mediation. She believes it is bad faith if the decision maker is not present at mediation. She indicated the committee needs to be focused on what is not working.

Director Campbell reminded the Judiciary and Legal sub-committee of the subcommittee's focus which is to track Supreme Court Opinions, monitor legislation, and compile rule change regulations.

Chair Campbell suggested adding servicer issues as a future agenda item.

Hardest Hit Fund – Presentation

Amber Lopez Lasater, Executive Director of Nevada Hardest Hit Fund addressed the committee. Nevada Hardest Hit Fund is under Nevada Affordable Housing Assistance Corporation through the State Department of Business and Industry. Funding of the program is through the United States Treasury in the amount of \$194 million. To date Hardest Hit has helped 5000 families stay in their homes. Director Lasater advised the program has had growing pains and experienced backlog. Hardest Hit is currently administering two programs: Mortgage Assistance Program (MAP), of \$1000.00 for nine months; and Reinstatement Program. The Reinstatement Program can be combined with MAP for up to \$12, 500 for arrears. Eligibility is based on under employment or unemployment. Underwriting is done in house and the loan is forgivable. It takes 45-60 days to close.

The Supreme Court amended rules will be shared as soon as they come out. New rules will be put on website upon release.

Public Comment

Ms. Navarro stated FMP failed her and she believes violations occurred in her mediations. She believes there are discrepancies in the rules and the public has no one to guide them.

Chair Campbell stated that the program is not allowed to give legal advice. However, the program can share homeowner resources with her. Chair Campbell requested Ms. Navarro put her comments and complaints in writing so the program can address the specific issues. Mr. Pace offered to assist Ms. Navarro. Ms. Orellana also advised Ms. Navarro she could reach out to her.

Ms. Law advised that she submitted rule change recommendations to the Supreme Court and indicated if there are not significant changes, there will be no program.

Mr. Tierney said there are issues that have not been discussed. He mentioned servicer agreements and stated committee should be addressing issues with servicer agreements with the Supreme Court. Mr. Tierney recommended the Advisory Committee read the Governors' veto letter and the charter.

Mr. Adams expressed concern over mediation statements not being distributed immediately after mediation. He believes all parties should have a copy of a signed agreement before the parties leave the mediation. He also believes an exchange of documents waiver would be beneficial to all parties. Mr. Adams indicated an adjustment of the mediation statement is required to accommodate trial modifications.

Ms. Schuler-Hintz stated pre-mediation counseling for homeowners would be beneficial and she recommended HUD approved counseling.

Chair Campbell advised the committee that it is coming up on reappointment and invited all to apply.

Adjournment:

Meeting adjourned at 12:11 p.m.

Respectfully submitted,

Cheryl Harris